

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested

By the foregoing amendment, claims 1, 5-9, 18, 22-30, 35, 44 and 45 have been canceled without prejudice or disclaimer to the subject matter recited therein. Applicants reserve the right to file one or more continuation application(s) directed to any of the canceled subject matter. Additionally, new claims 46-48 have been added. Claim 46 is directed to a vector comprising the nucleic acid of claim 36 (claim 36 has been indicated as being allowable) and claims 47 and 48 are directed to an isolated host cell transformed with the vector of claim 46. Support for these new claims can be found throughout the originally filed application. No new matter has been added.

Turning now to the Office Action, the Examiner has rejected claims 1, 5-9, 18, 22-26, 27-30, 35, 44 and 45 under 35 U.S.C. § 112, first paragraph, because the specification allegedly does not provide enablement for nucleic acids encoding proteins other than SEQ ID NO:2 or for nucleic acids encoding proteins that have the ability to synthesize any other aurones. This rejection is respectfully traversed.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, claims 1, 5-9, 18, 22-26, 27-30, 35, 44 and 45 have been canceled without prejudice or disclaimer. Accordingly, the Examiner's enablement rejection is rendered moot. Withdrawal of this rejection is thus respectfully requested.

Claims 1, 5-9, 18, 22-26, 27-30, 35, 44 and 45 have also been rejected under 35 U.S.C. § 112, first paragraph, for supposedly lacking proper written description. Applicants respectfully traverse this rejection.

In order to expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, claims 1, 5-9, 18, 22-26, 27-30, 35, 44 and 45 have been canceled without prejudice or disclaimer. Accordingly, the Examiner's written description rejection is rendered moot. Withdrawal of this rejection is therefore respectfully requested.

Applicants acknowledge the Examiner's statement, on page 16 (numbered paragraph 8) of the Office Action, that claims 31-34 and 36 are allowed. New claims 46-48 should also be indicated as being allowable since, as the Examiner stated on the record, "[t]he prior art does not teach or suggest . . . an isolated nucleic acid having the nucleotide of SEQ ID NO: 1, nor does the prior art teach or suggest the recited constructs which comprise these sequences." OFFICE ACTION at 16.

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited

In the event that there are any questions relating to this Amendment and Reply, or the application in general, it would be appreciated if the Examiner would

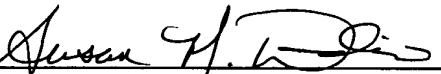
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telephone the undersigned attorney concerning such questions so that prosecution
of this application may be expedited.

Respectfully submitted,

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